IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1214 OF 2005

Kantabai Ramhari Gulave and others ...Petitioners

vs.

Shriram Revji Fokane and othes ...Respondents

Ms Tendulkar h/f Mr.M.S.Karnik for the Petitioners
Mr.Filji Frederick for Respondent Nos.1 to 3
Ms S.V.Gajare, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : OCTOBER 7,2006.

P.C.:

1. Heard Advocates appearing for the parties. The Petitioners are the first parties in the proceedings under section 145 of the Code of Criminal Procedure, 1973. The learned Executive Magistrate passed an order directing that the possession of the property in dispute shall be with the Petitioners till the dispute regarding possession is decided by the Civil Court. In Criminal Revision Application filed by the first to third Respondents, the Revisional Court has interfered and has set aside the order passed by the learned Magistrate.

2. After having heard the learned Advocates for the parties, I find that no case is made out for interference. A suit was filed by the first Petitioner in the Civil Court. After the first Petitioner was unsuccessful in obtaining the order of interim injunction, the suit was withdrawn.

The Revisional Court has noted that there are two other suits pending between the parties. The Revisional Court has also considered the decision of the Apex Court in case of Prakashchand Suchdeva vs. State and another [1994 (1) S.C.C. page 471].

3. In paragraph 12 of the judgment the Revisional Court has noted that the civil suits are pending between the parties and they are litigating on the questions of title and possession.

4. Considering all the aforesaid facts, no case is made out for interference. Writ Petition is rejected.

JUDGE